

SUPREME COURT OF THE UNITED STATES

PAUL C. HILDWIN v. FLORIDA

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME
COURT OF FLORIDA

No. 88-6066. Decided May 30, 1989

JUSTICE MARSHALL, dissenting.

Adhering to my view that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, *Gregg v. Georgia*, 428 U. S. 153, 231 (1976), (MARSHALL, J., dissenting), I would grant the petition for certiorari and vacate the death sentence in this case.

Even if I did not hold this view, I would dissent from the Court's decision today to affirm summarily the decision below. I continue to believe that summary dispositions deprive litigants of a fair opportunity to be heard on the merits and create a significant risk that the Court is rendering an erroneous or ill-advised decision that may confuse the lower courts. See *Pennsylvania v. Fruder*, — U. S. —, — (1988) (MARSHALL, J., dissenting); *Rhodes v. Stewart*, — U. S. —, — (1988) (MARSHALL, J., dissenting); *Buchanan v. Stanships*, 485 U. S. —, — (1988) (MARSHALL, J., dissenting); *Commissioner v. McCoy*, 484 U. S. —, — (1987) (MARSHALL, J., dissenting). This risk of error is particularly unacceptable in capital cases where a man's life is at stake. I dissent.